hearing by writing to the Commander, Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The drafters of this notice are Austin Pratt, Project Officer, and Lieutenant Commander John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Background and Purpose

Current regulations at 33 CFR 117.5 state that, unless otherwise required, drawbridges shall be fully opened for the passage of vessels. The proposed change would allow the floating retractable span of the Hood Canal Bridge to open halfway (300 feet) for the passage of most vessels instead of the maximum (600 feet). The drawspan of the Hood Canal is extremely wide compared to the majority of drawbridges. Unlike many other drawbridges, no part of the draw mechanism is suspended above the channel when opened. Opening only to 300 feet would reduce delays to roadway traffic and would reduce energy consumption and maintenance costs. A full opening and closure without counting vessel transit time takes at least fifteen minutes. This is two or three times as long as the operation of many other drawbridges. WSDOT has observed that only one or two openings out of an average of about 32 openings per month are for vessels that need the span fully opened to pass safely. The remaining vessels can pass safely through a horizontal opening of only 300 feet. In practice, many vessels routinely pass through the bridge before the retractable span has been fully opened.

Discussion of Proposed Rule

The proposed rule would amend paragraph (a) of 33 CFR 117.1045 to state that the draw shall be opened horizontally for 300 feet unless the maximum opening of 600 feet is requested. It would not remove the one hour notice requirement nor any other aspect of the existing regulations.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that most vessels only need a 300-foot opening and that vessels needing a 600-foot opening will be able to obtain one merely by requesting it from the bridgetender on duty.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant effect on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Paragraph (a) of § 117.1045 is revised to read as follows:

§ 117.1045 Hood Canal.

* * * * *

(a) The draw shall open on signal if at least one hour's notice is given. The draw shall be opened horizontally for 300 feet unless the maximum opening of 600 feet is requested.

* * * * *

Dated: October 17, 1995.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 95–27106 Filed 10–31–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[CA163–1–7251; AD–FRL–5323–4]

Clean Air Act Proposed Approval of the Federal Operating Permits Program; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing interim approval for the Federal Operating Permits Program submitted by the California Air Resources Board on behalf of the San Joaquin Valley Unified Air Pollution Control District (San Joaquin or District). This Program was submitted for the purpose of complying with Federal requirements in title V of the Clean Air Act which mandates that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. As part of San Joaquin's program, EPA is also proposing to approve Rule 2530 *Federally Enforceable Potential to Emit* under Clean Air Act sections 110 and 112(l). This rule creates federally-enforceable limits on potential to emit for sources with actual emissions less

than 50 percent of the major source thresholds.

DATE: Comments on this proposed action must be received in writing by December 1, 1995.

ADDRESSES: Comments should be addressed to Frances Wicher, Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, California 94105.

Copies of the District's submission and other supporting information used in developing the proposed interim approval including the Technical Support Document are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, (415) 744–1250, Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Title V

As required under title V of the Clean Air Act as amended in 1990, EPA has promulgated rules that define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 CFR part 70. Title V requires States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. EPA has also issued numerous policy documents on implementing part 70, many of which are contained in the docket for this proposal.

The Act requires that States develop and submit operating permit programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year of receiving the submission. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Federally-Enforceable Limits on Potential to Emit

Section 502(a) of the Act requires all major sources obtain title V operating permits. To determine whether a source is major, the Act focuses not only on a source's actual emissions, but also on its potential emissions. Thus, a source that has maintained actual emissions at levels below the major source threshold could still be subject to title V permitting if it has the potential to emit (PTE) major amounts of air pollutants.

However, in situations where unrestricted operation of a source would result in a PTE above major-source levels, such sources may legally avoid permitting by taking federally-enforceable PTE limits below the applicable major source threshold. Federally-enforceable limits are enforceable by EPA or by citizens in addition to the State or Local agency. There are numerous mechanisms for creating federally-enforceable limits including prohibitory rules that are approved into the state implementation plan and, for limiting PTE for hazardous air pollutants, under section 112(l) of the Act.

II. Proposed Action and Implications

A. Analysis of State Submission

The analysis contained in this notice focuses on the major elements of San Joaquin's title V operating permit program and on the specific elements that must be corrected to meet the minimum requirements of part 70. The full program submittal, the Technical Support Document (TSD), which contains a detailed analysis of the submittal, and other relevant materials are available for inspection as part of the public docket. The docket may be viewed during regular business hours at the address listed above.

1. Title V Program Support Materials

San Joaquin's program was submitted for approval under title V and part 70 by the California Air Resources Board (CARB) on July 3 and August 17, 1995. Additional material was submitted by the District on September 6 and 21, 1995. In submitting the District's title V program, CARB requested source category-limited interim approval for the program because California law currently exempts agricultural sources from all permitting requirements including title V. The District's submission contains a complete program description, District implementing and supporting regulations, application and reporting forms, and other supporting information. In addition, CARB submitted for all Districts in the State a single Attorney General's opinion, State enabling legislation, and certain other information regarding State law.

San Joaquin's Rule 2530 Federally Enforceable Potential to Emit was submitted by CARB as a revision to the SIP and for approval under section 112(l) of the Act on October 24, 1995.

EPA reviewed the District's program to assure that it contains all the elements required by § 70.4(b) (elements of the initial program submission) and has found the program complete pursuant to § 70.4(e)(1) in a letter to the CARB on October 18, 1995. Rule 2530 was found to be complete pursuant to EPA's completeness criteria for SIP revisions that are set forth in 40 CFR Part 51 Appendix V.

2. Title V Operating Permit Regulations and Program Implementation

The rules that constitute San Joaquin's title V program are Rules 2520 Federally Mandated Operating Permits (adopted June 15, 1995), Rule 2530 Federally Enforceable Potential to Emit (adopted June 15, 1995), and elements of Rule 2201 New and Modified Stationary Source Review (amended June 15, 1995). Other District rules that were submitted in support of the District's title V program are Rules 1080 Stack Monitoring (amended December 17, 1992), 1081 Source Sampling (amended December 17, 1992), 2010 Permits Required (amended December 16, 1993), 2020 Exemptions (amended October 26, 1993), and 3010 Fees (amended July 21, 1995).[1] These rules, along with the authorities granted the District under California State law, substantially meet the requirements of §§ 70.2 (Definitions) and 70.3 (Applicability) for applicability; § 70.5(c) (Standard application form and required information) for criteria that define insignificant activities and for complete application forms; §§ 70.4(b)(12) (Section 502(b)(10) changes) and 70.6 (Permit content) for permit content including operational flexibility; § 70.7 (Permit issuance, renewal, reopenings, and revisions) for public participation, permit issuance, and permit modifications; § 70.9 (Fee

[1] EPA is only approving the portions of these Rules that are necessary to implement the District's title V program. Except for Rule 2530, this approval does not constitute approval or indicate the approvability of these rules under any other provisions of the Act or EPA regulations.

determination and certification) for fees; and § 70.11 for enforcement authority.

EPA has identified several interim approval issues affecting applicability, application content, permit content, and permit issuance and modifications procedures that must be corrected in order for the San Joaquin program to receive full approval. These interim approval issues are discussed in Section II.B.2. of this notice and detailed in the TSD. EPA has also included in the summary section of the TSD its understandings and interpretations of certain elements of the San Joaquin rule including the use of EPA's January 25, 1995 transition memorandum on limiting potential to emit; limits on EPA's objections to permits; limits on the permit shield; consolidation of overlapping applicable requirements; variances; the effective definition of title I modifications; and administrative permit amendments. A copy of this summary section may be obtained by contacting Frances Wicher at the address listed at the beginning of this notice.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submission must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton of emissions per year (adjusted from 1989 by the Consumer Price Index (CPI)). The $25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum,'' (§ 70.9 (b)(2)(i)). For FY 1996, the presumptive fee level is $30.93.

San Joaquin has opted to make a presumptive minimum fee demonstration in order to show fee adequacy and meet the requirements of § 70.9 (Fee determination and certification). San Joaquin's fee schedule (Rule 3010) requires title V facilities to pay an application fee for initial permits, permit renewals, and permit modifications of $15 per unit creditable to a $46 per hour processing fee. In addition, the District charges an annual fee for permits to operate and a fee for sources applying for preconstruction permits under Rule 2201. In aggregate, title V sources in the Valley will pay a total annual fee of $32.09 per ton in 1996. This amount is over the $30.93 per ton presumptive minimum fee level for FY 1996.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and Commitments for Section 112 Implementation. San Joaquin has demonstrated in its title V program submission adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in the State of California enabling legislation and in regulatory provisions defining ''federally enforceable requirements'' and stating that the permit must incorporate conditions and terms to ensure compliance with all applicable requirements. EPA has determined that this legal authority is sufficient to allow San Joaquin to issue permits that assure compliance with all section 112 requirements.

b. Authority for Title IV (Acid Rain) Implementation. San Joaquin's title V program contains minimal elements of an acid rain program; however, the District has committed to adopt all missing elements of an acid rain program as soon as possible. At this time, EPA does not believe that there are any phase II acid rain sources in the Valley, therefore, the District's commitment to adopt an acid rain program expeditiously should ensure appropriate regulatory authority exists to issue a timely title IV permit to any new or existing source in the District that becomes subject to, or wants to opt into, the acid rain program.

B. Proposed Action

1. Title V Operating Permits Program

The EPA is proposing to grant interim approval to the operating permit program for the San Joaquin Valley Unified APCD submitted on July 3 and August 17, 1995, and supplemented on September 6 and 21, 1995. If EPA finalizes this proposed interim approval, it will extend for two years following the effective date of final interim approval and cannot be renewed. During the interim approval period, San Joaquin will be protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal permits program for the District. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the three-year time period for processing the initial permit applications.

Following final interim approval, if the District fails to submit a complete corrective program by the date six months before expiration of the interim approval, the District will be subject to a sanction clock or potentially subject to sanctions under section 502(d)(2) of the Act. If EPA has not granted full approval to the District's title V program by the end of the interim period, then the District will be subject to a federally-imposed operating permits program.

2. Interim Approval Issues for San Joaquin's Title V Operating Permits Program

If EPA finalizes this interim approval, San Joaquin must make the following changes, or changes that have the same effect, to receive full approval:

(1) Revise the applicability language in Rule 2520 2.2 and the definitions of Major Air Toxics Source (Rule 2520 3.18) and Major Source (Rule 2520 3.19) to be consistent with the Act and part 70 to cover sources that emit at major source levels. Currently, these sections of Rule 2520 define major source solely on a source's potential to emit; however, both the Act and part 70 define a major source as a source that emits or has the potential to emit at major source levels. These revisions to Rule 2520 will assure sources whose potential to emit is less than major source levels but whose actual emissions are at major source levels because of non-compliance with or ineffective limits on potential to emit are subject to permitting under Rule 2520.

(2) Limit the exemption for non-major sources in Rule 2520 4.1 so that it does not exempt non-major sources for which EPA determines, upon promulgation of a section 111 or 112 standard, must obtain title V permits.

(3) Either revise the definition of ''stationary source'' in Rule 2201 3.29 so that the exception to the Major SIC Group requirement for oil and gas production sources in Rule 2201 3.29.4 does not apply for determining the applicability of Rule 2520 or demonstrate that the definition is as stringent as part 70.

Rule 2201 3.29.4 is a provision applicable to any facility located totally within the Western or Central Kern County Oil Fields or the Fresno County Oil Fields that is used for the production of light oil, heavy oil or gas. This provision states that all sources under common control or ownership within each field shall be considered a single stationary source even if they are located on non-contiguous or adjacent properties. However, the section also states that light oil production, heavy oil production, and gas production shall

constitute separate stationary sources. While the former provision is more stringent that part 70, the latter provision is not. Part 70's definition of ''major source'' requires aggregating all emission points under common control or ownership that are on contiguous or adjacent properties and belong to the same Major Group as described in the Standard Industrial Classification (SIC) Manual. See § 70.2 ''Major source.'' Light oil production, heavy oil production and gas production are all in the same Major Group. It is unclear whether or not San Joaquin's program would require permitting of the same emission units as part 70. If the District can make this demonstrate then EPA proposes not to require any revision to Rule 2201 3.29 as it applies to applicability determinations under Rule 2520.

While § 70.2 ''Major source'' (1)(i) does not require emissions from any oil or gas exploration or production well be aggregated with emissions from other such units in determining whether such units are a major source, this allowance is limited to determining HAPs major source status. Emissions of other regulated pollutants must be aggregated within the stationary source for determining major source status.

(4) Revise Rule 2520 7.1.3.2 to eliminate the requirement that fugitive emission estimates need only be submitted in the application if the source is in a source category identified in the major source definition in 40 CFR part 70.2. Fugitive emissions need only be counted to determine the applicability of part 70 if a source is in a source category listed in the § 70.2. major source definition. However, once applicability is determined, all sources must submit information on fugitive emissions in their applications to the extent the information is required by part 70. See § 70.3(d).

(5) Revise Rule 2520 to provide that unless the District requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. See §§ 70.5(a)(2) and 70.7(a)(4).

(6) Revise Rule 2520 sections 11.1.4.2 and 11.3.1.1 and Rule 2201 5.3.1.1.1 to include notice ''by other means if necessary to assure adequate notice to the affected public.'' See § 70.7(h)(1).

(7) Revise Rule 2520's permit issuance procedures to provide for notifying EPA and affected states in writing of any refusal by the District to accept all recommendations for the proposed permit that an affected state submitted during the public/affected state review period. See § 70.8(b)(2).

(8) Either delete section 11.7.5 in Rule 2520 and section 5.3.1.8.5 in Rule 2201, which purport to limit the grounds upon which EPA may object to a permit to compliance with applicable requirements, or revise them to be fully consistent with § 70.8(c).

Rule 2520 11.7.5 and Rule 2201 5.3.1.8.5 purport to limit the grounds on which EPA may object to a permit to compliance with applicable requirements. Section 70.8(c)(1) provides that EPA will object to the issuance of any proposed permit that is not ''in compliance with applicable requirements or requirements under this part [part 70].'' (emphasis added). EPA's authority to object to issuance of permits derives from section 505(b) of the Act. No state or local agency may restrict authorities granted EPA under the Clean Air Act; therefore, EPA views section 11.7.5 of Rule 2520 and Section 5.3.1.8.5 of Rule 2201 as not binding upon its actions. EPA will exercise its authority to object to permits consistent with § 70.8(c) and without regard to the restriction on that authority in San Joaquin's title V program. Should the District issue a permit to which EPA has objected and the District has not revised or reissued to meet the objection, EPA will consider the permit invalid and will require the District to revise and reissue the proposed permit or will revoke, revise, and reissue the permit itself. EPA has made these revisions to Rule 2520 an interim approval issue in order to clarify its authority.

(9) Revise Rule 2520 2.4 to clarify that the sentence in section 2.4 that ''[o]nly the affected emissions units within the stationary source shall be subject to part 70 permitting requirements'' applies only to stationary sources that are also area sources. Rule 2520 2.4 requires any emission unit, including an area source subject to a standard or other requirement promulgated pursuant to section 111 or 112 of the CAA published after July 21, 1992, to obtain a part 70 permit but also states that only the affected emissions unit within a stationary source shall be subject to the part 70 permitting requirements. Section 70.3(c) requires all emission units subject to any applicable requirement at major sources be included in a part 70 permit. Only at non-major sources does part 70 allow the permit to cover only the units causing the source to be subject to part 70.

(9) Revise Rule 2520 8.1 to provide that model general permits and model general permit templates will have a permit term not to exceed 5 years instead of being valid until revoked, suspended, or modified. During the interim approval period, EPA recommends that the District issue all model general permits and model general permit templates with a permit term not to exceed 5 years to avoid having to reopen all model general permits and model general permit templates issued during the interim approval period to incorporate the correct permit term.

(10) Revise Rule 2520 8.1 to provide that any permit for a solid waste incineration unit that has a permit term of more than 5 years shall be subject to review, including public notice and comment, at least every 5 years. See § 70.6(a)(2).

(11) Revise Rule 2520 13.2.3 to state that the permit shield will apply only to requirements addressed in the permit. Rule 2520 13.2.3 currently extends the permit shield to requirements addressed by the District in written application reviews. Section 504(f) of the Act and § 70.6 (f) are both clear that the permit shield may only extend to requirements that are addressed in the permit. EPA will not consider a source shielded from an enforcement action for failure to comply with an applicable requirement if that applicable requirement is addressed only in the written reviews supporting permit issuance and not in the permit. Further, EPA will veto any permit that extends the permit shield to conditions, terms, or findings of non-applicability that are not included in the permit.

(12) Revise Rule 2520 9.12 to require the permit to contain terms and conditions for the trading of emission increases and decreases in the permitted facility to the extent that *any* applicable requirement provides for such trading without case by case approval. Rule 2520 9.12 currently restricts permit terms and conditions to trades allowed under the District's new source review rule, Rule 2201. See § 70.6 (a)(10).

(13) Revise Rule 2520, Section 9.0 (permit content) to include the § 70.6 (c)(3) requirement for schedules of compliance for applicable requirements for which the source is in compliance or that will become effective during the permit term. Section 70.6(c)(3), reflecting the language of Clean Air Act section 504(a) (''Each permit issued * * * shall include * * * a schedule of compliance* * * .''), requires that the permit contain a schedule of compliance even when the source is in compliance with all applicable requirements. Rule 2520 9.15 only requires a schedule of compliance when the source is in violation of any applicable requirement. During the interim period, the District should incorporate schedules of compliance, as

required by § 70.6(c)(3), into all issued permits.

(14) Revise Rule 2520 to treat changes made under the prevention of significant deterioration (PSD) provisions of the Act and EPA' PSD regulations in the same manner as ''title I modifications'' as that term is defined in Rule 2520 and Rule 2201. PSD modifications are considered ''modifications under title I'' in part 70.

(15) Revise Rule 2520 to state that, notwithstanding the permit shield provisions, if a source that is operating under a general permit is later determined not to qualify for the terms and conditions of that general permit, then the source is subject to enforcement action for operation without a part 70 permit. See § 70.6(d).

(16) Because California State law currently exempts agricultural production sources from permit requirements, CARB has requested source category-limited interim approval for all California districts. EPA is proposing to grant source category-limited interim approval to the San Joaquin program. In order for this program to receive full approval, the Health and Safety Code must be revised to eliminate the exemption of agricultural production sources from the requirement to obtain a title V permit. Once the California statute has revised, the District must also revise its permit exemption rules to eliminate any blanket exemption granted agricultural sources.

3. District Program Implementing Section 112(g)

The EPA has published an interpretive notice in the Federal Register regarding section 112(g) of the Act (60 FR 8333; February 14, 1995). The revised interpretation postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The interpretive notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule so as to allow States time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), San Joaquin must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing District regulations.

For this reason, EPA is proposing to approve the use of San Joaquin's preconstruction review program (Rule 2201) as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by San Joaquin of rules specifically designed to implement section 112(g). However, since the sole purpose of this approval is to confirm that the District has a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of this proposed approval to 12 months following promulgation by EPA of the section 112(g) rule.

4. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the state program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 of San Joaquin's program for receiving delegation of section 112 standards that are unchanged from federal standards as promulgated. California Health and Safety Code section 39658 provides for automatic adoption by CARB of section 112 standards upon promulgation by EPA. Section 39666 of the Health and Safety Code requires that districts then implement and enforce these standards. Thus, when section 112 standards are automatically adopted pursuant to section 39658, San Joaquin will have the authority necessary to accept delegation of these standards without further regulatory action by the District. The details of this mechanism and the means for finalizing delegation of standards will be set forth in a Memorandum of Agreement between San Joaquin and EPA, expected to be completed prior to approval of the District's section 112(l) program for delegation of unchanged federal standards. This program applies to both existing and future standards but is limited to sources covered by the part 70 program.

5. Proposed Approval of Rule 2530 Federally Enforceable Potential To Emit

On October 24, 1995, CARB submitted for approval into the San Joaquin Valley's portion of the California State Implementation Plan (SIP), Rule 2530 Federally Enforceable Potential to Emit. This Rule creates a streamlined process for limiting the potential to emit of sources that emit less that 50 percent of major source levels but whose potential to emit is above those levels. Sources complying with this Rule will have federally-enforceable limits on their potential to emit and will avoid being subject to title V.

The basic requirement for approving into the SIP rules to limit potential to emit is that the limits in the rule are practically enforceable. For a discussion of general principle of practical enforceability, see Memorandum from John Seitz to Regional Air Directors ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' January 25, 1995, found in the docket for this rulemaking. Rule 2530 meets these requirements for practical enforceability for limiting potential to emit through general prohibitory rules in SIPs. Please refer to the TSD for further analysis of the Rule.

CARB also submitted Rule 2520 for approval under section 112(l) of the Act. The separate request for approval under section 112(l) is necessary because the proposed SIP approval discussed above only provides a mechanism for controlling criteria pollutants. EPA has determined that the practical enforceability criterion for SIPs is also appropriate for evaluating and approving Rule 2530 under section 112(l). In addition, Rule 2530 must meet the statutory criteria for approval under section 112(l)(5). For a discussion of EPA's authority to approve rules under section 112 (l), see 59 FR 60944 (November 29, 1994).

EPA proposes approval of Rule 2530 under 112(l) because the Rule meets all of the approval criteria specified in section 112(l)(5) of the Act. EPA believes Rule 2530 contains adequate authority to assure compliance with section 112 requirements because it does not waive any section 112 requirements applicable to non-major sources. Regarding adequate resources, Rule 2530 is a supporting element of the District's title V program which has demonstrated adequate funding. Furthermore, EPA believes that Rule 2530 provides for an expeditious schedule for assuring compliance because it provides a streamlined approval that allows sources to establish limits on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Finally, Rule 2530 is consistent with the objectives of the section 112 program because its purpose is to enable sources to obtain federally enforceable

limits on potential to emit to avoid major source classification under section 112. The EPA believes this purpose is consistent with the overall intent of section 112.

Rule 2530 is modeled on the California model prohibitory rule developed by the California Association of Air Pollution Control Officers, CARB, and EPA. In its agreement on the model rule, EPA expressed certain understandings and caveats. See letter, Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards, U.S. EPA to Peter D. Venturini, Chief, Stationary Source Division, CARB, January 11, 1995. A copy of this letter is in the docket for this rulemaking. These understandings and caveats are incorporated into EPA's proposed approval of Rule 2530.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Comments should be submitted by December 1, 1995. Copies of the District's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under Section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection Hazardous substances, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 19, 1995.

John Wise,

Acting Regional Administrator.

[FR Doc. 95–27144 Filed 10–31–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 86

[AMS–FRL–5302–3]

RIN 2060–AC65

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic (OBD) Systems—Acceptance of Revised California OBD II Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to revise requirements associated with on-board diagnostic (OBD) systems, as specified by 40 CFR 86.094–17. The federal OBD rulemaking, published February 19, 1993, allowed for compliance with California OBD II requirements as satisfying federal OBD requirements through the 1998 model year. The California Air Resources Board has recently revised their OBD II requirements. The federal OBD regulations require appropriate revisions such that compliance with the recently revised OBD II requirements will satisfy federal OBD.

DATES: Written comments on this document will be accepted until January 16, 1996. EPA will conduct a public hearing on this Notice of Proposed Rulemaking on December 13, 1995, if a public hearing is requested by November 16, 1995. If a hearing is requested, it will convene at 9 a.m. and will adjourn at such time as necessary to complete the testimony. Further information on the public hearing can be found in Supplementary Information, Section III, Public Participation.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to: The Air Docket, room M–1500 (Mail Code 6102), Waterside Mall, Attention: Docket No. A–90–35, 401 M Street, SW., Washington, DC 20460.

The public hearing, if requested, will be held at the Holiday Inn North Campus, 3600 Plymouth Road, Ann Arbor, MI. Parties wishing to testify at the hearing should provide written notice to the contact person (see **FOR FURTHER INFORMATION CONTACT**).

Materials relevant to this rulemaking are contained in Docket No. A–90–35, and are available for public inspection and photocopying between 8:00 a.m. and 5:30 p.m. Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

FOR FURTHER INFORMATION CONTACT: Todd Sherwood, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, telephone (313) 668–4405.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction and Background

On February 19, 1993, the EPA promulgated a final rulemaking (58 FR 9468, February 19, 1993) requiring manufacturers of light-duty vehicles (LDV) and light-duty trucks (LDT) to install on-board emission control diagnostics (OBD) systems on such vehicles beginning in model year 1994. The regulations promulgated in that final rulemaking require that